

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Aaron Fischman,

Chapter 11

Case No. 23-36038 (CGM)

Debtor.

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**ORDER DENYING THE MOTION TO IMPOSE THE AUTOMATIC STAY  
AND CONFIRMING NO STAY CAME INTO EFFECT AT FILING**

Upon the Motion, (“Motion”), filed by Aaron Fischman (“Debtor”), seeking imposition of the automatic stay as to all creditors filed on January 15, 2024 [dkt. no. 29]; and upon the Opposition to the Motion filed by Rushmore Servicing, in its capacity as servicer for Wilmington Savings Fund Society, FSB, Not Individually But Solely As Trustee For RPMLT 2014-1 Trust, Series 2014-1 (“Secured Creditor”) on January 30, 2024 [“Secured Creditor Opposition”, dkt. no. 36] seeking denial of the imposition of the automatic stay due to presumption of bad faith pursuant to 11 U.S.C. § 362(c)(4)(D)(ii); and upon the Objection to the Motion, filed by Shalom S. Madienbaum, on January 30, 2024 [“Madienbaum Objection”, together with the Secured Creditor Opposition, the “Objections”, dkt. no. 37]; and upon the Reply to the Objections, filed by the Debtor, on February 2, 2024 [dkt. no. 40]; and upon the Supplemental Reply, filed by the Debtor, on February 5, 2024 [dkt. no. 41]; and upon the Statement in support of the Motion, filed by Sy Marcus, on February 5, 2024 [dkt. no. 42]; and the Court having held a hearing on the Motion on February 6, 2024 (“Hearing”); and upon all the proceedings had before the Court; and after due deliberation and sufficient cause appearing, it is hereby

**ORDERED**, that the Motion is denied and the Objections are sustained as provided herein; and it is further

**ORDERED**, that the Debtor has failed to rebut the presumption of bad faith by clear and convincing evidence pursuant to 362(c)(4); and it is further

**ORDERED**, that the automatic stay imposed under 11 U.S.C. § 362(a) did not take effect upon the filing of the Debtor's current bankruptcy petition on December 12, 2023, under Case No. 23-36038; and it is further

**ORDERED**, that all other relief requested in the Motion is hereby denied.

**Dated: February 14, 2024**  
**Poughkeepsie, New York**



**/s/ Cecelia G. Morris**

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**Hon. Cecelia G. Morris**  
**U.S. Bankruptcy Judge**